

## ACTIVITY EVALUATION RESULTS FROM THE 9th ANNUAL ETHICS SYMPOSIUM (April 16, 2005)

On a scale of 1 - 5 (5 being the highest; 1 being the lowest)							5	4	3	2	1	Avg.
To what extent were your personal objectives satisfied?							17	10	1	0	2	3.7
To what extent did the environment contribute to the learning experience?							18	11	4	2	0	4.3
To what extent did the materials contribute to the learning experience?							20	10	1	1	1	4.4
To what extent were the objectives stated in the promotional literature or those stated at the beginning of the activity satisfied?							22	5	2	2	0	4.4
To what extent did the activity contain significant current intellectual or practical content?							25	8	1	0	0	5.0

		Overall Effectiveness						Effectiveness of Teaching Methods						Significant Current Intellectual or Practical Content					
		5	4	3	2	1	Avg.	5	4	3	2	1	Avg.	5	4	3	2	1	Avg.
<b>Panel One:</b>	Attorney-Client Fee Agreements and Conflicts of Interest	16	11	0	0	0	4.6	18	7	2	0	0	4.6	18	8	1	0	0	4.6
<b>Panel Two:</b>	Lawyer Mobility and Conflicts of Interest	13	5	10	0	0	4.1	10	6	10	1	0	3.9	13	8	7	0	0	4.2
<b>Panel Three:</b>	Conflicts and Duties to Non-Clients	14	6	5	1	0	4.3	10	6	5	1	0	3.5	16	7	3	1	0	4.4
<b>Panel Four:</b>	RRC - A Dialogue About Current Issues	13	7	1	0	0	4.6	13	6	1	0	0	4.6	18	2	1	0	0	4.8

NOTE:      Paid  
Attendees      Received  
75                  36                  48%

**Informal Symposium Survey on Issues Pending  
Before the State Bar Rules Revision Commission  
(April 16, 2005)**

**➔ 32 TOTAL SURVEYS RETURNED**

**➔ TALLY OF RESPONSES INDICATED IN BRACKETS**

- 1) Current Rule 3-600 addresses a lawyer's representation of an organization as a client. It does not permit a lawyer to act as a "whistle-blower" and report misconduct committed by an officer or other agent of the organization to a person or entity outside of the organization. Although such outside reports are prohibited, the rule does afford lawyers the permissive option of internal reporting up the chain of command of the organization client.

Mark any statements that you agree with:

- ☐ **[12]** The policy of the current rule should be maintained.
- ☐ **[12]** The rule should be amended to *permit* whistle-blowing.
- ☐ **[2]** The rule should be amended to *require* whistle-blowing.
- ☐ **[6]** Instead of whistle-blowing, the rule should be amended to require, not simply permit, internal reporting for certain types of misconduct.

- 2) Current Rule 2-200 addresses fee splits among lawyers in different law firms. It allows fee splits, including pure referral fees, provided the informed consent of the client is obtained prior to the disbursement of the fee split. A California appellate decision has suggested that the best time to obtain a client's informed consent is at the time when lawyers in different law firms enter into an agreement to divide a fee.

Mark any statements that you agree with:

- ☐ **[9]** The policy of the current rule should be maintained.
- ☐ **[4]** The rule should be amended to *encourage* lawyers to obtain client consent at the time of a fee split agreement.
- ☐ **[13]** The rule should be amended to *require* lawyers to obtain client consent at the time of a fee split agreement.
- ☐ **[6]** The rule should be amended to delete the existing requirement for client consent prior to disbursement of a fee split.

- 3) Current Rule 2-100 generally prohibits ex parte contact with a represented client. One of the express exceptions permits communications with a public officer, board, committee or body. This exception is regarded as a necessary component to avoid constitutional challenges to the rule claiming that the rule restrains protected political speech, including the right to petition government.

Mark any statements that you agree with:

- ☐ **[12]** The policy of the current rule should be maintained.
- ☐ **[3]** The rule should be amended to delete the exception for communications with represented governmental officials or agencies so that these clients may be afforded the same protection against ex parte contacts that non-governmental clients enjoy.
- ☐ **[5]** The exception for communications with represented governmental officials or agencies should be maintained; however, the rule should be amended to require that notice be given to a government attorney prior to any ex parte contact pursuant to the exception.
- ☐ **[11]** The exception for communications with represented governmental officials or agencies should be amended to narrow the scope of permitted contacts to only those communications made in connection with public hearings, meetings, and other similar public access forums, thus prohibiting ex parte communications in other settings where there exists a risk, especially in litigation matters, that a public official will make an admission or agree to a settlement without the benefit of advice from the government's attorney.

**[1 response did not mark any of the boxes for this item.]**

- 4) Current Rule 2-300 addresses the sale of a law practice. It permits the valuation of good will when the owner of a law firm dies or retires from the practice of law. All or substantially all of the law practice must be transferred by the sale as the rule generally prohibits the sale of a law practice in a piecemeal fashion.

Mark any statements that you agree with:

- ☐ **[7]** The policy of the current rule should be maintained.
- ☐ **[10]** The rule should be amended to permit the sale of a defined area of a law firm's practice (i.e., the sale of the debt collection practice of a litigation firm) or a geographic area (i.e., a statewide firm down-sizing to practice only in southern California) provided that the seller is retiring from that area of practice.
- ☐ **[8]** The rule should be amended to permit the sale of a defined area of a law firm's practice (i.e., the sale of the debt collection practice of a litigation firm) or a geographic area (i.e., a statewide firm downsizing to practice only in southern California) regardless of whether the seller is retiring from that area of practice.
- ☐ **[1]** The rule should be deleted and the common law policy prohibiting the valuation of good will in the sale of a law practice should be restored.

**[6 responses did not mark any of the boxes for this item.]**

- 5) Current Rule 3-120 generally prohibits sexual relations between lawyers and clients. The prohibition is not an absolute ban. Sexual relations are prohibited only where such relations: (i) are required as a condition of any representation; (ii) are obtained by coercion, intimidation or undue influence; or (iii) cause the lawyer to perform legal services incompetently. Sexual relations between spouses or ongoing sexual relations that predate the initiation of a lawyer-client relationship are permitted.

Mark any statements that you agree with:

- ☐ **[20]** The policy of the current rule should be maintained.
- ☐ **[5]** The rule should be amended to be an absolute ban against sexual relations. Proof of incompetent services, undue influence or *quid pro quo* should not be an obstacle to seeking discipline.
- ☐ **[5]** The rule should be deleted as the topic of sexual relations between a lawyer and a client is a private matter and not appropriate for regulation by the Rules of Professional Conduct.

**[2 responses did not mark any of the boxes for this item.]**